

June 5, 1998

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June 5, 1998

FCC MAIL ROOM

Ms. Magalie Romain Salas, Secretary
Federal Communications Commission
Room 222
1919 M St. NW
Washington, D.C. 20554

Re: Petition for Rule Making
Change Community of License
Ely, Nevada and Carlin, Nevada

Dear Ms. Salas:

Enclosed please find an original and five copies of a Petition for Rule Making, filed on behalf of L. Topaz Enterprises, Inc., requesting the substitution of Channel 244C for Channel 244C1 at Ely, Nevada, and to reallocate the channel from Ely, Nevada to Carlin, Nevada, as that community's first local FM service; in accordance with Section 1.420 (i) of the Commission's Rules.

If this proposal is ultimately adopted, L. Topaz Enterprises, Inc. will promptly apply for authority to construct and operate a new station at Carlin, Nevada.

An additional copy of this letter is enclosed. Please date-stamp and return to me in the enclosed postage-paid envelope.

If you have any questions, please contact me at: (608)831-8708.

Enclosures:

cc: John A. Korousos
Chief, Allocations Branch

Sent via certified mail

Respectfully submitted,

Dale A. Ganske

Dale A. Ganske, President
L. Topaz Enterprises, Inc.
5546-3 Century Ave.
Middleton, Wi. 53562

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
RECEIVED Washington, D.C. 20554**

JUN - 8 1998

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In the Matter of

Amendment of Section 73.202(b)
Table of Allotments,
FM Broadcast Stations
(Ely and Carlin, Nevada)

)
)
) MM Docket _____
) RM - _____
)
)

To: The Chief, Allocations Branch

PETITION FOR RULE MAKING

Comes now L. TOPAZ ENTERPRISES, (hereafter "Topaz"), pursuant to Section 1.401 of the Commission's Rules, and respectfully petitions the Commission to amend the FM Table of Allotments, 47 C.F.R. 73.202(b), to substitute FM Channel 244C for FM Channel 244C1 at Ely, Nevada, and to reallocate the channel from Ely, Nevada to

Proposal of Petitioner:

<u>City</u>	<u>Channel Numbers</u>	
	<u>Present</u>	<u>Proposed</u>
Ely, Nevada	224A, 244C1, 269C3	224A, 269C3
Carlin, Nevada	---	244C

Carlin, Nevada, as that community's first local FM service. Topaz also requests a concomitant modification of its Construction Permit for Station KHIK(FM) to specify Carlin, Nevada as its community of license.

The allotment of Channel 244C to Carlin is mutually-exclusive with Channel 244C1 at Ely, Nevada. As such, Topaz seeks to invoke the provisions of Section 1.420(i) of the Commission's Rules, which permit the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. 1/

In support of this proposal, the following information is herewith submitted for consideration:

Carlin is an incorporated city located in Elko County in northeastern Nevada, approximately 530 kilometers north-northwest of Las Vegas, Nevada. The city population is 2,710 and the county population is 33,530. 2/ Currently, there are no broadcast stations (AM, FM or TV) licensed to serve Carlin, Nevada.

Carlin was established in 1886, and incorporated in 1971. It has a mayor-council form of government, a local planning board and an economic development committee. Carlin has its own school system, consisting of one campus containing kindergarten, middle school and high school. The City of Carlin has a local police department, fire department, an ambulance service and a public works department which provides water and sewage services to the community. Carlin also has a local library, a senior

1/ See Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O"), 4 FCC Rcd 4870 (1989), recon. granted in part ("Change of Community MO&O"), 5 FCC Rcd 7094 (1990).

2/ City population from Carlin Business Directory, published by Carlin Economic Development Committee. County population from the 1990 U.S. Census.

citizens center, two banks, several local churches, restaurants, motels, and various retail establishments. Carlin also has its own Post Office and zip code (89822) and a local telephone exchange provided by Citizens Communications.

The allotment of Channel 244C at Carlin would further the objectives of Section 307(b) of the Communications Act of 1934, as amended, by providing a first local service at Carlin, Nevada, while not depriving Ely, Nevada of its sole broadcast outlet. Ely, which has a population of only 4,756, would retain service from Station KELY(AM), a fulltime AM station operating on 1340 kHz; as well as FM Stations KELY-FM, Channel 269A (upgrade pending to Channel 269C3); and KDSS(FM), Channel 224A.

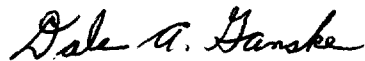
Attached hereto and made a part of this petition is a Technical Exhibit in support of the requested allotment. Based on the information contained therein, it appears that the requested channel could be allocated to Carlin, in full compliance with the minimum distance separation requirements of Section 73.207(b) of the Commission's Rules, without the imposition of a site-restriction.

If this proposal is adopted, L. Topaz Enterprises, Inc., will promptly apply for a construction permit to operate KHIX(FM) at Carlin, Nevada. If a construction permit is granted, Petitioner will promptly construct and operate the proposed station.

In accordance with Section 1.52 of the Commission's Rules and Regulations, I hereby certify that I have examined the foregoing Petition for Rule Making and the attached Technical Exhibit and that both are true and correct to the best of my knowledge and belief.

WHEREFORE, it is respectfully requested that the instant petition be granted and that the FM Table of Allotments, Section 73.202(b), be amended as requested herein.

Respectfully submitted,
L. TOPAZ ENTERPRISES, INC.



Dale A. Ganske, President
5546-3 Century Avenue
Middleton, WI 53562
(608) 831-8708

by:

CONTEMPORARY COMMUNICATIONS



Larry G. Fuss, President
P.O. Box 1787
Cleveland, MS 38732
(601) 846-1787
(601) 843-0494 Fax

June 1, 1998



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**PHONE (601) 846-1787 □ FAX (601) 843-0494
P.O. BOX 1787 □ CLEVELAND, MS 38732**

TECHNICAL EXHIBIT

**IN SUPPORT OF
PETITION FOR RULE MAKING
SUBSTITUTION OF CHANNEL 244C
FOR CHANNEL 244C1
AT ELY, NEVADA AND
REALLOCATION OF CHANNEL 244C
TO CARLIN, NEVADA**

L. TOPAZ ENTERPRISES, INC.

Prepared May 30, 1998

**CONTEMPORARY COMMUNICATIONS
Broadcast Consultants
Post Office Box 1787
Cleveland, MS 38732
Phone: (601) 846-1787
Fax: (601) 843-0494
e-mail: lfuss@deltaradio.net**

Contemporary Communications

PHONE (601) 846-1787 □ FAX (601) 843-8404
P.O. BOX 1787 □ CLEVELAND, MS 38732

TECHNICAL EXHIBIT

**IN SUPPORT OF
PETITION FOR RULE MAKING
SUBSTITUTION OF CHANNEL 244C
FOR CHANNEL 244C1
AT ELY, NEVADA AND
REALLOCATION OF CHANNEL 244C
TO CARLIN, NEVADA**

L. TOPAZ ENTERPRISES, INC.

INTRODUCTION

This Technical Exhibit supports the petition of L. TOPAZ ENTERPRISES, INC., seeking to amend the FM Table of Allotments, Section 73.202(b) of the Rules, by substituting FM Channel 244C for Channel 244C1 at Ely, Nevada, and the reallocation of Channel 244C to Carlin, Nevada, as that community's first local FM channel. L. Topaz also seeks to modify its Construction Permit for Station KHIX(FM) to specify Carlin, Nevada, as its community of license, pursuant to Section 1.420(i) of the Commission's Rules.

ALLOCATION

A study was performed using the computerized **SEARCHFM** frequency search program and the current FCC/NTIS database to determine if Channel 244C could be allocated in compliance with the minimum distance separation requirements of Section 73.207(b) of the Commission's Rules. The study included all applicable co-channel, adjacent-channel

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P.O. BOX 1787 □ CLEVELAND, MS 38732

and IF separations. The results of that study indicate that Channel 244C may be allocated to Carlin in full compliance with Section 73.207(b), without the imposition of a site-restriction. The allocation of Channel 244C at Carlin, Nevada, is mutually-exclusive with Channel 244C1 at Ely, Nevada, and would require the deletion of Channel 244C1 at Ely, in accordance with Section 1.420(i) of the Commission's Rules. The community of Ely would continue to receive service from Station KELY(AM), 1230 kHz; KELY-FM, Channel 269A; and KDSS(FM), Channel 224A. The community of Carlin, Nevada, would receive its first local broadcast service as a result of the allocation of Channel 244C.

The "area-to-locate" for Channel 244C is indicated on Exhibit A, attached hereto. The exhibit depicts the required separation arcs from all pertinent co-channel and adjacent channel stations and allocations. As indicated, there is ample area in the vicinity of Carlin in which to locate a transmitter site. Assuming maximum Class C facilities (100 kw @ 600 meters above average terrain), a transmitter site at any location within the "area-to-locate" would enable the proposed station to provide adequate city-grade (70 dBu) coverage to the entire city, in full compliance with Section 73.315(a) and (b).

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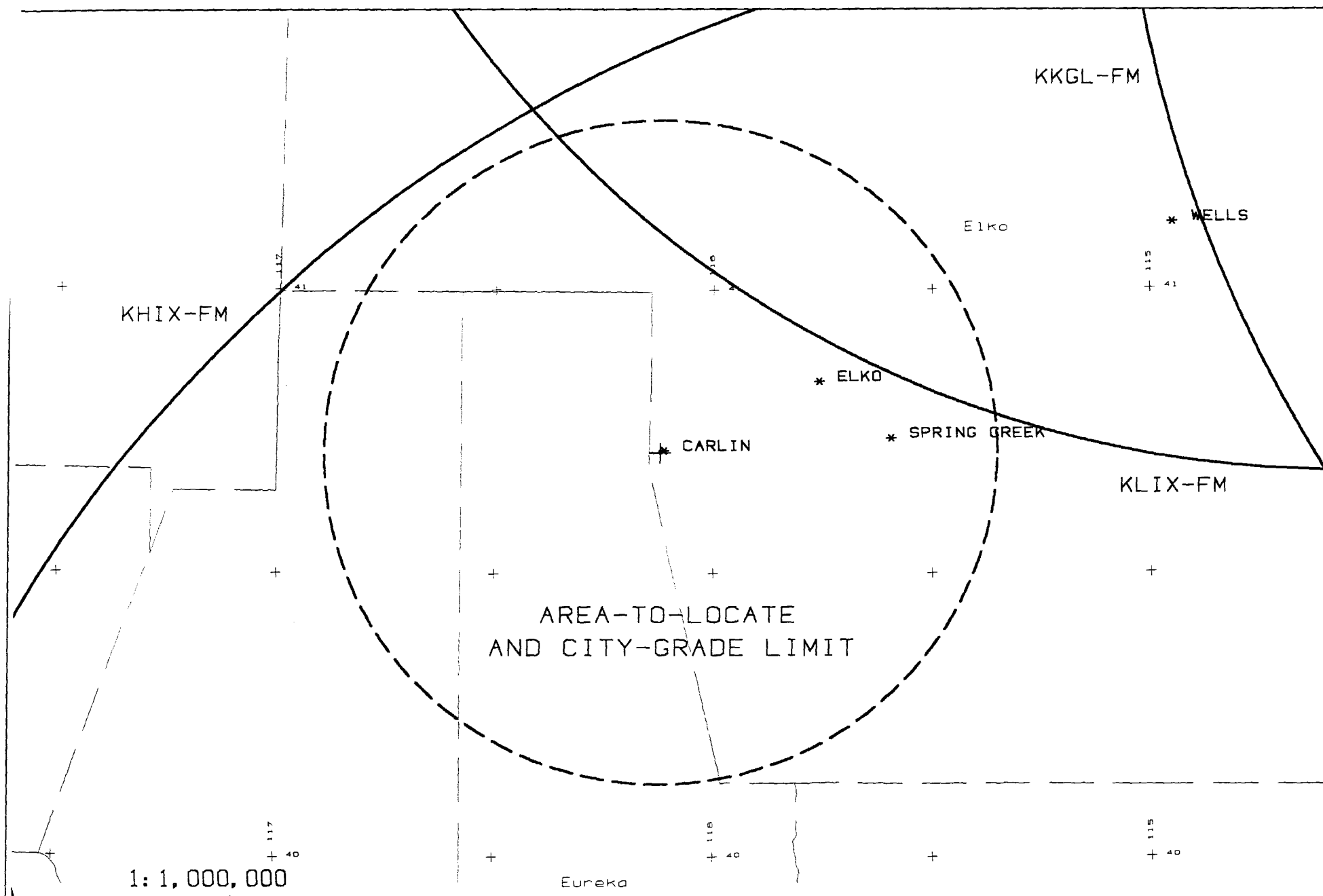
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P.O. BOX 1787 □ CLEVELAND, MS 38732**

CONCLUSION

The proposed change in the table of allotments will not create a short-spacing to any existing station, pending application or vacant allotment, and other than the deletion of Channel 244C1 at Ely, Nevada, will not require the reallocation of any station, pending application or vacant allotment.

A copy of the separation study for Channel 244C is attached hereto as Exhibit B and made a part of this report (only those stations and channels sufficiently close for concern are noted therein).

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Scale in km 0 10 20 30 40 50 60 70	AREA-TO-LOCATE - CHANNEL 244C N. Lat. 40 42 47 W. Lng. 116 07 18	EXHIBIT A CARLIN, NEVADA
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CONTEMPORARY COMMUNICATIONS
BROADCAST CONSULTANTS

EXHIBIT B

CHANGE CITY OF LICENSE
CARLIN NEVADA

REFERENCE

40 42 47 N

116 07 18 W

CLASS = C

Current Spacings

DISPLAY DATES

DATA 05-27-98

SEARCH 05-30-98

----- Channel 244 - 96.7 MHz -----

Call N. Lat.	Channel W. Lng.	Location	Power	Dist HAAT	Azi	FCC	Margin
KHIX.C CP	244C1	Ely	NV	199.53	147.2	270.0	-70.47
39 11 53	114 51 57	CN	100.000 kW	-9 M			
Topaz Enterprises, Inc.				BPH961223MA	980518		
KLIXFM LI	243C1	Twin Falls	ID	244.09	32.6	209.0	35.09
42 33 05	114 30 59	CN	100.000 kW	40 M			
B & B Broadcasting, Inc.				BLH6268	961223		
KKGL LI	245C	Nampa	ID	337.92	0.3	241.0	96.92
43 45 19	116 05 52	CN	44.000 kW	768 M			
Pacific Northwest Broadcastin				BLH7318	970702		

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PHONE (601) 846-1787 □ FAX (601) 843-0494
P.O. BOX 1787 □ CLEVELAND, MS 38732

CERTIFICATION

State of Mississippi)
) ss.
County of Bolivar)

I, Larry G. Fuss, do hereby certify as follows:

- 1) I am a qualified and experienced broadcast consultant. I have been actively involved in the broadcast industry since 1972 and currently hold a lifetime FCC General Class Radio Telephone License (License No. PG-8-8450).
- 2) I have prepared numerous applications and rule making petitions which have been accepted for filing with the Federal Communications Commission.
- 3) I have been retained by L. Topaz Enterprises, Inc., to prepare the attached Technical Exhibit.
- 4) The Technical Exhibit, of which this deposition is a part, and the measurements, calculations, studies and determinations upon which this report is based, were prepared by me or under my supervision and direction. All material contained therein is believed to be true and correct, to the best of my knowledge and belief.

Larry G. Fuss
Larry G. Fuss
Affiant

6/30/98
Date